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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,053	12/11/2003	James Dennis Stell	NITP:101US	9168
7590	09/22/2006		EXAMINER HOOK, JAMES F	
S. Peter Konzel Simpson & Simpson, PLLC 5555 Main Street Williamsville, NY 14221			ART UNIT 3754	PAPER NUMBER

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,053	Applicant(s) STELL ET AL.	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-19 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gras in view of Smith. The patent to Gras discloses the recited noise reducing device for a pressurized fluid system comprising a housing 7 comprising an inlet end provided with a plate 8 having a plurality of orifices where at least one orifice passes fluid therethrough, the inlet end orifices comprise an inlet face and an outlet face, the inlet end orifices create a back pressure upstream which is described as being from a low pressure to a high pressure which suggests inherently that at least a 5 psig pressure would be seen, a diffusing pack material 14, and an outlet end of the housing containing at least one outlet orifice 13,13',13'', where the diffusing pack material is formed of woven mesh or wound knitted fine metal wire such as stainless steel as can the housing. The patent to Gras discloses inherently suggests that high back pressures are seen, however, as supported by Smith these type of noise reduction devices when used to silence high pressure fluids such as gases, as high as 700 psig is seen. It would have been obvious to one skilled in the art to modify the device of Gras to create back pressures exceeding 5 psig where such is considered obvious in light of the teachings of Smith that pressures seen by such

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systems range in the 700 range which would suggest high back pressures, at least higher than 5 psig as suggested by Smith.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gras in view of Barber (037). The patent to Gras discloses all of the recited structure with the exception of the specific type of diffusing pack material used, the manner in which it is formed, and various dimensions. The patent to Barber discloses the recited noise reducing device comprising a housing 12 comprising an inlet and an outlet end, the inlet end and outlet end comprising at least one orifice for passing a fluid there through, including gases, the inlet end has an inlet and outlet face where backpressure is maintained upstream from the inlet orifice end, a diffusing pack material 26 disposed within the housing, the pack material maintaining contact with the outlet face of the inlet orifice, the diffusing pack can be formed of monofilament wire knitted to form a mesh, where such can be wound to thereby overlap itself which forms a plurality of folded mesh layers, where at least one stiffener in the form of a wire screen can be provided to hold the mesh together, the mesh and screen are formed of heat and oxidation resistant material such as stainless steel, where a plurality of diffusing packs can be provided in

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the housing thereby providing for a first knitted wire mesh, a second wire screen layer proximate to the first layer, a third layer of knitted mesh, and a forth wire screen layer proximate to the outlet end and contacting such as it is formed around the end wire mesh layer which contacts the outlet end. It would have been obvious to one skilled in the art to modify the diffusing material in Gras to be formed of the same type of material as used in Barber having the same properties as suggested by Barber where such would have properties equivalent to the diffusing material in Gras but would be stronger and less likely to fail prematurely as such is a tougher material.

Allowable Subject Matter

Claims 13-19 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection. It was considered that in light of the new rejection applying new art and supplying a new teaching reference there was no clear subject to talk about without applicant having the chance to consider the newly made rejection, therefore no interview was deemed necessary at this time, however, should applicant wish to discuss this rejection further the examiner will grant an interview upon request.

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

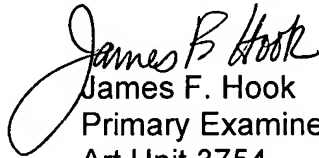
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH